

## ARTICLE

# TTAB Rules Sales to Single Customer Sufficient To Avoid Abandonment

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In *Mombacho Cigars SA v. Tropical Tobacco, Inc.*, the Trademark Trial and Appeal Board (TTAB) looked closely at whether a small amount of products bearing a particular trademark sold to a single customer is sufficient to rebut a claim that the trademark has been abandoned.

The submission of evidence of non-use of a trademark for three consecutive years constitutes a *prima facie* showing of abandonment. Mombacho Cigars claimed that Tropical Tobacco had only made nominal use of the MOMBACHO mark in that time. The evidence indicated that Tropical Tobacco made only limited sales of its' MOMBACHO-branded cigars and that such sales were made exclusively to one customer. As there is no law that "the owner of a trademark must reach a particular level of success, measured either by the size of the market or by its own level of sales, to avoid abandoning a mark," the petition to cancel the trademark registration was dismissed. This case is instructive on the amount of use of a mark that would be deemed sufficient to avoid abandonment and provide a strong basis for defending against a third-party challenger asserting abandonment.

Read "[TTAB Rules Sales to Single Customer Sufficient To Avoid Abandonment](#)" in its entirety.

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